



# बिहार गजट

## असाधारण अंक

### बिहार सरकार द्वारा प्रकाशित

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28 भाद्र 1933 (श०)  
(सं० पटना 520) पटना, सोमवार, 19 सितम्बर 2011

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निर्वाचन विभाग

अधिसूचना

4 अगस्त 2011

सं० डी1-0031/2011-47—भारत निर्वाचन आयोग, नई दिल्ली की अधिसूचना संख्या 82/बिहार/(8/2009)/2011, दिनांक 22 जून 2011 एवं निर्वाचन अर्जी संख्या 8/2009 में माननीय उच्च न्यायालय, पटना द्वारा दिनांक 28 जनवरी 2010 को पारित आदेश/न्याय निर्णय को सर्वसाधारण की जानकारी के लिए प्रकाशित किया जाता है।

बिहार—राज्यपाल के आदेश से,  
आर० के० प्रसाद,  
विशेष कार्य पदाधिकारी—सह—  
सरकार के उप—सचिव।

भारत निर्वाचन आयोग

अधिसूचना

निर्वाचन सदन, अशोक रोड, नई दिल्ली-110001, तारीख 22 जून, 2011/1 आषाढ़, 1933(शक)

सं० 82/बिहार/(8/2009)/2011—लोक प्रतिनिधित्व अधिनियम 1951 (1951 की 43) की धारा-106 के अनुसरण में, निर्वाचन आयोग एतद्वारा निर्वाचन अर्जी सं० 8/2009 में दिये गये उच्च न्यायालय, पटना के तारीख 28 जनवरी, 2010 के आदेश को प्रकाशित करता है।

आदेश से,  
के० अजय कुमार,  
प्रधान सचिव,  
भारत निर्वाचन आयोग।

## ELECTION COMMISSION OF INDIA

## NOTIFICATION

*Nirvachan Sadan , Ashoka Road, New Delhi-110001, Dated 22<sup>nd</sup> June 2011/  
1 Asadha, 1933(Saka)*

No.82/BR/(8/2009)/2011—In pursuance of Section 106 of the Representation of the People Act, 1951 (43 of 1951), the Election Commission hereby published Order dated the 28<sup>th</sup> January, 2010 of the High Court of Judicature at Patna in Election Petition No. 8 of 2009.

By order,  
K. AJAY KUMAR,  
*Principal Secretary,*  
*Election Commission of India.*

## IN THE HIGH COURT OF JUDICATURE AT PATNA

E.P No.8 of 2009

GOPAL NISHAD.

Versus

## ELECTION COMMISSIONER OF INDIA

For the petitioner : Mr. Binoy Kumar Sinha-1, Advocate.  
For the Election Commission : M/s J.P. karn, Sr.Adv., Sidharth Prasad,  
Advocate

11. 28.01.2010 None appears for the election petitioner.

Present election petition questioning the election of respondent no.5, Mahabali Singh from 35-Karakat Parliamentary Constituency, conducted during the general election 2009 has been put up for orders as the same is barred by limitation as it was filed after 45 days of the declaration of the result of the election. By filing the limitation petition kept at Flag-A, the election petitioner has requested this Court to condone the delay of eight days in filing the petition. The election petition has been filed in terms of

the provisions contained in the Representation of People Act, 1951 (hereinafter referred to as “the Act”), Section 86 whereof gives a mandatory command to the High Court to dismiss the election petition which does not comply with the provisions of Sections 81, 82 or 117. Section 81 require the election petition to be presented before the High Court within 45 days of the declaration of the result, failing which the petition has to be dismissed. The mandatory scheme of the Act exclude the application of Limitation Act, 1963 and such view has been taken by the Hon’ble Supreme Court in the case of Hukumdev Narain Yadav Versus Lalit Narain Mishra, reported in AIR 1974 Supreme Court 480.

3. The election petition having been filed beyond the period of 45 days of the declaration of result of election of respondent no.5 is barred by limitation and is, accordingly, dismissed.

(V.N. Sinha, J.)

अधीक्षक, सचिवालय मुद्रणालय,  
बिहार, पटना द्वारा प्रकाशित एवं मुद्रित।  
बिहार गजट (असाधारण) 520-571+200-डी0टी0पी0।  
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